

REMARKS

Claims 1-11 are now pending in this patent application. Claims 3 and 8-10 stand withdrawn from further consideration as being drawn to non-elected species.

In this paper, claims 1-10 have been amended, and claim 11 has been added.

INFORMATION DISCLOSURE STATEMENT

By separate paper, Applicants are submitting documents that will perfect the Information Disclosure Statement filed in this application on May 31, 2006. Applicants request that the Examiner not begin preparation of a Final Rejection or a Notice of Allowance until these documents have been filed and considered.

OBJECTIONS TO CLAIMS

In this paper, Applicants have made the changes to claims 5 and 7 that were helpfully suggested by the Examiner.

In view of the amendments to claims 5 and 7 made herein, Applicants request that the objections to these claims be withdrawn.

SECTION 112, 2ND PARAGRAPH, REJECTION

Claims 1, 2 and 4-7 were rejected under 35 USC § 112, second paragraph, as being indefinite. Applicants traverse this rejection insofar as it might be deemed applicable to claims 1, 2 and 4-7 as now presented.

All of the claims in the application have been carefully reviewed and amended so that they clearly recite the claimed subject matter according to accepted U.S. practice.

In claim 1,

- all of the instances of "and/or" have been deleted,
- "the suction extraction of air," "the overall quantity" and "the wash ware" have been deleted, and
- "the operating state" (now in lines 14-15) has been changed to --an operating state."

Claim 2 recites "the capacity of the exhaust-air fan" and "the exhaust-air quantity withdrawn through the heat-recovery device." Applicants submit that the capacity and exhaust-air quantity are inherent in the normal operation of a fan and are clear as recited in claim 2. As amended herein, claim 2 clearly introduces a "heat-recovery device" and an "exhaust-air fan."

As amended herein, claim 4 clearly introduces a "speed control means."

As amended herein, claim 6, recites, "the operating state or states being controlled by the disposition of wash ware in the dishwasher," as disclosed, for example, in the specification on page 4, lines 28-32.

In claim 7, "the closing elements" is now clear in view of the amendments to claim 1; "regions" has been changed to --zones--.

In view of the amendments to claims 1, 2 and 4-7 made herein and in view of the foregoing observations, Applicants request that this rejection be withdrawn.

PRIOR ART REJECTION I

Claim 1 was rejected under 35 USC § 102(b) as being anticipated by DE 196 44 438 A1 (Wörter). Applicants traverse this rejection insofar as it might be deemed applicable to claim 1 as now presented.

Claim 1 has been amended to recite the disposition and function of the exhaust-air fan, the openings provided between the zones and the closing elements. Support for the amendments to claim 1 can be found in the application as filed in drawing figure 1 and in the specification on page 7, line 35, through page 8, line 18, and page 11, line 34, through page 12, line 14.

In Applicant's disclosed and claimed conveyor dishwasher, the escape of moisture laden hot vapors from the dishwasher is prevented and a heat-recovery device is controlled whereby the quantity of exhaust air and, thus, the energy dissipated within the machine are minimized. The control of the moist vapors and the heat recovery are carried out automatically, in dependence of an operating state, or states, of the dishwasher so that that excessive consumption of energy, which occurs in known conveyor dishwashers, is prevented.

In the conveyor dishwasher disclosed by Wörter there are no elements that can be fairly equated with the movable closing elements or the control of these closing elements, as recited in

claim 1. Accordingly, the combination of attributes required by claim 1 cannot be met by the Wörter disclosure.

In view of the foregoing observations and arguments, Applicants submit that the disclosure in Wörter cannot properly serve as a basis for rejecting claim 1, as now presented, under 35 USC § 102(b). Applicants therefore request that this rejection be withdrawn.

PRIOR ART REJECTION II

Claims 2, 4 and 5 were rejected under 35 USC § 103(a) as being unpatentable over Wörter in view of US 4247158 (Quayle). Applicants traverse this rejection insofar as it might be deemed applicable to claims 2, 4 and 5 as now presented.

On page 9 of the Office Action, the Examiner acknowledges that Wörter "does not explicitly teach that the capacity of the fan, and thus the exhaust air quantity withdrawn, can be controlled in dependence on the operating state of the dishwasher." The Examiner cites Quayle as teaching "a dishwasher airflow drying system (abstract) and discloses a fan (Fig. 2, ref. 31 and col. 3, lines 27 and 28) which can be controlled in dependence on an operating state of the dishwasher (col. 8, lines 1 - 26), which is disclosed as advantageously enhancing the control of escaping hot-moist air (col. 1, lines 51-53)." The Examiner contends, "It would have been obvious to one of ordinary skill in that art at the time of the invention to use an exhaust-air fan wherein the capacity of the fan, and thus the exhaust-air quantity withdrawn, can be controlled in dependence on the operating state of the dishwasher as per the system of the Quayle teaching in the dishwasher as per the Woerter teaching in order to enhance the control of escaping hot-moist air."

Applicants do not agree with the Examiner's proposal to modify the Wörter dishwasher in view of the Quayle disclosure. Applicants particularly observe that, in the Quayle dishwasher, all of the cleaning rinsing and heating (drying) operations are carried out in one chamber, and not in a series of chambers, as is done in the Wörter conveyor dishwasher. Applicants therefore submit that the teachings in Quayle cannot be reasonably regarded as obviously applicable to the Wörter dishwasher.

Applicants observe also that there are no teachings in Quayle that can remedy deficiencies in the Wörter disclosure vis-à-vis the requirements of amended parent claim 1, as pointed out

above under the heading PRIOR ART REJECTION I. So, even if the Wörter dishwasher were modified as proposed by the Examiner, the resulting dishwasher could not meet the requirements of Applicant's claims 2, 4 and 5.

In view of the foregoing observations and arguments, Applicants submit that no reasonable combination of the disclosures in Wörter and Quayle can properly serve as a basis for rejecting claims 2, 4 and 5, as now presented, under 35 USC § 103(a). Applicants therefore request that this rejection be withdrawn.

PRIOR ART REJECTION III

Claim 6 was rejected under 35 USC § 103(a) as being unpatentable over Quayle in view of Wörter. Applicants traverse this rejection insofar as it might be deemed applicable to claim 6 as now presented.

This rejection may be viewed as the inverse of the rejection discussed above under the heading PRIOR ART REJECTION II. That is, instead of modifying the Wörter dishwasher according to teachings in Quayle, the Examiner proposes modifying the Quayle dishwasher according to teachings in Wörter. Applicants submit that such a combination would not have been obvious for reasons made evident in the discussion above. Also, such a modification of the Quayle dishwasher would amount to a gross redesign of the Quayle dishwasher. The resulting dishwasher would not be recognizable as a dishwasher made according to the Quayle teachings and could not be reasonably viewed as an obvious modification.

Also, for reasons made evident in the discussion above under the heading PRIOR ART REJECTION II, a dishwasher resulting from the Examiner's proposed modification of the Quayle dishwasher could not meet the requirements of Applicant's claim 6.

In view of the foregoing observations and arguments, Applicants submit that no reasonable combination of the disclosures in Quayle and Wörter can properly serve as a basis for rejecting claim 6, as now presented, under 35 USC § 103(a). Applicants therefore request that this rejection be withdrawn.

PRIOR ART REJECTION IV

Claim 10 was rejected under 35 USC § 103(a) as being unpatentable over Quayle in view of Wörter and further in view of US 5660195 (Taylor). Applicants traverse this rejection insofar as it might be deemed applicable to claim 10 as now presented.

The Examiner cites Taylor for its disclosure of "a method of using a dishwasher (abstract) wherein the dishwasher includes a closing element (Fig. 2, ref. 28 and col. 3, line 62), which is disclosed as advantageously providing venting in a controlled manner via a gradual and quiet transition between open and closed states (col. 1, lines 55-58)" and contends, "It would have been obvious to the skilled artisan to perform the method as per the Quayle/Woerter teachings wherein the dishwasher includes a closing element as in the machine used in the process as per the Taylor teaching with a reasonable expectation of success venting in a controlled manner via a gradual and quiet transition between open and closed states. Further, the skilled artisan would have found it obvious to try the process wherein the closing elements are wholly or partially closed when a washing zone is switched off, a rinsing zone is switched off and a drying zone is switched off and when there is no wash ware in the washing, rinsing and drying zones with a reasonable expectation of success in order to inhibit contamination from entering the vent, since there are only three possible positions for the closing element: completely closed, partially closed or completely open."

Applicants observe that the dishwasher disclosed by Taylor is, like the dishwasher disclosed by Quayle, a single chamber dishwasher. Applicants submit that the teaching in Taylor are not relevant to a conveyor dishwasher and cannot be reasonably viewed as obviously applicable to a conveyor dishwasher. Moreover, there are no teachings in any of Quayle, Wörter and Taylor that could yield a conveyor dishwasher with the combination of the openings, closing elements and control as recited in parent claim 1.

In view of the foregoing observations and arguments, Applicants submit that no reasonable combination of the disclosures in Quayle, Wörter and Taylor can properly serve as a basis for rejecting claim 10, as now presented, under 35 USC § 103(a). Applicants therefore request that this rejection be withdrawn.

REJOINDER OF WITHDRAWN CLAIMS

Since claim 1, which is generic to all of the species claimed in this application is allowable, Applicants request that withdrawn claims 3 and 8-10, which require all of the limitations of claim 1, be rejoined with claims 1, 2 and 4-7 and that the rejoined claims be examined and recognized as allowable.

ALLOWABILITY OF NEW CLAIM

Support for the subject matter recited in new claim 11 can be found in original claim 1.

Claim 11 is dependent from claim 1, which is allowable for reasons presented above in the discussion under the heading PRIOR ART REJECTION I. Claim 11 is therefore allowable at least because of its dependence from an allowable parent claim.

OTHER PRIOR ART

Applicants have considered the other prior art cited by the Examiner. Applicants are not commenting on this prior art, because it was not applied against the claims in this application.

CONCLUSION

In view of the amendments, observations and arguments presented herein, Applicants respectfully request that the Examiner reconsider and withdraw the objections and rejections stated in the outstanding Office Action and recognize all of the pending claims as allowable.

If unresolved matters remain in this application, the Examiner is invited to contact Frederick R. Handren, Reg. No. 32,874, at the telephone number provided below, so that these matters can be addressed and resolved expeditiously.

Application No. 10/581,250
Amendment dated April 7, 2010
Reply to Office Action of December 7, 2009

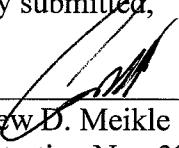
Docket No.: 4266-0121PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Dated: April 7, 2010

Respectfully submitted,

By _____


Andrew D. Meikle
Registration No.: 32,868
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant